



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_12_13_2016

Tuesday, December 13, 2016 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, December 13, 2016 at 07:00 PM

MEETING PLACE: Westfield City Hall- Assembly Room

THE FOLLOWING AGENDA IS SUBJECT TO CHANGE AT THE DISCRETION OF THE BOARD OF ZONING APPEALS

OPENING OF REGULAR MEETING

Note the presence of a quorum

Approval of minutes - November 1, 2016

Documents: [Minutes - November 1, 2016](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

PUBLIC HEARINGS

1612-VU-07 [PUBLIC HEARING]

4225 West 156th Street

Colin & Jennifer Cunningham

The petitioner is requesting approval of a Variance of Standard to allow more than one Principal Building used for residential purposes on one Lot in the AG-SF1: Agriculture / Single-Family Rural District (Article 6.4(B)).

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Existing Conditions](#) | [Exhibit 4: Site Plan Exhibit](#) | [Exhibit 5: Petitioner's Application](#)

1612-VS-16 [PUBLIC HEARING]

303 East 161st Street (Urban Vines)

Noah Herron

The petitioner is requesting approval of a Variance of Standard to allow a second Monument Sign for an Agritourism Use in the AG-SF1: Agriculture / Single-Family Rural District (Article 6.17(H)(2)).

Documents: [Exhibit 1: BZA Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Sign Elevations](#) | [Exhibit 5: Existing Conditions](#)

1612-VS-17 [PUBLIC HEARING]

18300 Block of Joliet Road (Parcel No. 08-05-31-00-00-004.000)

TNA Enterprises, LLC

The petitioner is requesting approval of a Variance of Standard to reduce the Minimum Lot Frontage in the AG-SF1: Agriculture / Single-Family Rural District (Article 4.2(D)).

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Application](#) | [Exhibit 4: Petitioner's Plans](#)

CONTINUED

1609-AA-01 [CONTINUED]

14939 Ditch Road

Indiana Structural Foundations, LLC

The petitioner is appealing an Administrative Determination (1604-AD-02) regarding standards applicable to a concrete business pursuant to a previously approved Variance of Use (79-V-12).

REPORTS/COMMENTS:

Plan Commission Liaison

Economic and Community Development Department

ADJOURNMENT

The Westfield-Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, November 1, 2016, at Westfield City Hall. Members present included Ken Kingshill, Martin Raines, Dave Schmitz, Robert Smith, and Jeannine Fortier. Also present were Jesse Pohlman, Senior Planner; Pam Howard, Associate Planner; Daine Crabtree, Associate Planner; and Rodney Retzner, City Attorney.

APPROVAL OF MINUTES

Raines moved to approve the September 13, 2016, meeting minutes.

Schmitz seconded, and the motion passed 4-0.

Oath administered to newly appointed alternate Board member, Jeannine Fortier.

Approval of 2017 Schedule of Meetings and Filing Dates.

Motion: Kingshill; Second: Raines; Vote: 5-0.

Pohlman reviewed the Rules & Procedures.

ITEMS OF BUSINESS

1611-SE-03

[PUBLIC HEARING]

15859 Little Eagle Creek Avenue

Julie Case Scharnowske (Ultimate Canine)

The petitioner is requesting approval of a Special Exception to allow a business that trains service, therapy and family dogs (Kennel) within the AG-SF1: Agriculture / Single-Family Rural District (Chapter 13).

Crabtree presented an overview of the requested Special Exception, as summarized in the Department report. He distributed written comments that were submitted in support of the petition.

Public Hearing opened at 7:13 p.m.

Denny Smith, 15951 Little Eagle Creek Avenue; Spoke in support of the petitioner and expressed full support of the request and encouraged approval.

Public Hearing closed at 7:16 p.m.

Board discussed the nature of the use and had concerns with the description as a kennel.

Crabtree explained the use is a kennel as defined by the Unified Development Ordinance; however, the Department's recommended conditions include limiting the scope of the use to that as described by the petitioner in their written narrative.

Motion to approve the Special Exception with the following conditions:

1. The use shall be limited in scope and operated in substantial compliance to the Petitioner's Narrative and Site Plan Exhibit. Any expansion or substantial alteration to the scope and operation of the use, as determined by the Director, shall require approval by the Board of Zoning Appeals.
2. The use shall be limited to an accessory use incidental and secondary to the use of the property as a dwelling unit.
3. The Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department prior to the commencement of the Special Exception use.

Motion: Schmitz; Second: Kingshill: Vote 5-0

Schmitz moved to adopt the Department's recommended findings of fact for approval.

Raines seconded and the Motion passed 5-0.

1611-VS-15
[PUBLIC HEARING]

17001 Oak Ridge Road (Westfield Business Centre)

Jackson Development, LLC

The petitioner is requesting a modification of a condition of approval for previously granted Variances of Standard that modified Architectural Standards (1605-VS-08) in the OI: Open Industrial District.

Pohlman, on behalf of Amanda Rubadue, presented an overview of the requested modification of condition, as summarized in the Department report.

Bill Butz, Kimley Horn, on behalf of the petitioner, presented an overview of the challenges of the existing landscaping and mound height.

Public Hearing opened at 7:32 p.m.

No public comments.

Public Hearing closed at 7:33 p.m.

The Board discussed the surrounding context and mounds in the corridor.

Raines inquired about the impact on the mound's height at the two driveways and line of sight restrictions.

Butz responded that the mound, regardless of the approved height, would be required to taper to comply with line of sight restrictions.

Motion to approve the request to modify the condition of approval for a previously granted Variance of Development Standard (1605-VS-08) in the OI: Open Industrial District to require that the existing evergreen trees along Oak Ridge Road, as depicted on the Landscape Plan, shall be preserved.

Motion: Raines; Second: Kingshill: Vote 5-0.

Raines moved to adopt the Department's recommended findings of fact for approval.

Kingshill seconded and the Motion passed 5-0.

Schmitz recused himself at 7:45 p.m.

1611-VU-06
[PUBLIC HEARING]

201 Mill Street
The Downtown Westfield Association (DWA)
The petitioner is requesting approval of a Variance of Use to allow Low Intensity Retail (health and wellness) within the MF1: Multi-Family Low Density District (Chapter 13).

Crabtree presented an overview of the requested Variance of Use, as summarized in the Department report. He distributed written comments that were submitted in support of the petition.

Public Hearing opened at 7:47 p.m.

Steve Reitmeyer, 410 East Main Street; on behalf of the Grand Junction Task Group (GJTG); Stated the task group reviewed this petition on October 25, 2016, and concluded that this area is best suited for business and that the GJTG fully supports the project and its use as a transitional use of the property.

Melody Jones, 211 Mill Street; Stated that as a residential neighbor, adjacent to this property, that she feels this low impact business is ideal for the current transitional period of the area, and that she is in support of the petition.

Public Hearing closed at 7:52 p.m.

Kingshill inquired whether the petitioner was aware of the temporary nature of this location for her business.

Teresa Skelton, Executive Director of the Downtown Westfield Association, responded that the petitioner leases this property from the City and would be subleasing to Ms. Rabold, initially with an offer for a two-year lease.

Ms. Rabold confirmed she understood the temporary nature of the lease.

Motion: Approve the Variance of Use with the condition that the use of the Property shall be limited in scope and operation to the Petitioner's Narrative. Any expansion or substantial alteration to the scope and operation of the Variance of Use, as determined by the Director, shall require approval by the Board of Zoning Appeals.

Motion: Raines; Second: Kingshill: Vote 4-0

Kingshill moved to adopt the Department's recommended findings of fact for approval.

Raines seconded and the Motion passed 4-0.

Schmitz rejoined the meeting.

REPORTS/COMMENTS

Plan Commission Liaison report by Schmitz.

Economic and Community Development Department.

Schmitz motioned to adjourn the meeting.

Kingshill seconded, and the motion passed.

The meeting adjourned at 8:02 p.m.

Chairperson
Robert Smith, Esq.

Secretary
Matthew S. Skelton, Esq., AICP
Director



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

December 13, 2016

1612-VS-07

Exhibit 1

Petition Number: 1612-VS-07

Subject Site Address: 4225 West 156th Street (the "Property")

Petitioner: Colin L. & Jennifer Cunningham (the "Petitioner")

Request: The petitioner is requesting a Variance of Standard from the Unified Development Ordinance (the "UDO") to allow more than one Principal Building used for residential purposes on one Lot (Article 6.4(B)) in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(C)).

Current Zoning: AG-SF1: Agriculture / Single-Family Rural District

Current Land Use: Residential

Approximate Acreage: 5.96 acres

Exhibits:

1. Staff Report
2. Location Map
3. Existing Conditions Exhibit
4. Site Plan Exhibit
5. Petitioner's Application

Staff Reviewer: Amanda Rubadue, Associate Planner

PROPERTY INFORMATION

The subject property is 5.96 acres +/- in size and located at 4225 West 156th Street (see [Exhibit 2](#)).

The Property is zoned AG-SF1: Agriculture / Single-Family Rural District ("AG-SF1"). The property currently contains a single family home and a barn (see [Exhibit 3](#)). The surrounding properties are also zoned AG-SF1: Agriculture-Single Family Rural.

PETITION HISTORY

This petition will receive a public hearing at the December 13, 2016, Board of Zoning Appeals meeting.

Property History:

- On July 19, 1999, the Board of Zoning Appeals approved a Variance of Standard (99-V-23) with conditions, as further described herein, to allow for the construction of a new single-family residence and the continued use of the existing single-family residence (the "1999 Variance"). This variance was approved with the condition that approval was for the petitioner only, the then residents Lonnie and Mary Tillery (the "Tillerys"). The new single-family residence was not built as per the plans filed with the 1999 Variance; rather, the existing barn was converted into its current use as a guest house.
- On February 1, 2016, the Tillerys transferred ownership of the property to Thomas and Karen Lee (deed recorded as Instrument No. 2006-5077 in the Office of the Recorder of Hamilton County,



Indiana). As a result of this transfer, the 1999 Variance is no longer applicable because it was tied to the Tillerys.

- On November 18, 2016, following the filing of this variance request on November 4, 2016, the Property ownership was transferred to Colin and Jennifer Cunningham, the Petitioner (deed recorded as Instrument No. 2016-60953 in the Office of the Recorder of Hamilton County, Indiana).

Variance Request: The current use of the barn as a guest house does not comply with the 1999 Variance, which no longer applies, and does not comply with the Unified Development Ordinance because it results in two residential dwellings on the Property, as further summarized below.

Article 6.4(B) Building Standards; Single-family Residential Uses: The standard states “[i]n no case shall there be more than one (1) Principal Building¹ used for residential purposes, and its Accessory Buildings, located on one (1) Lot, except as otherwise permitted herein.”

As a result, the Petitioner has filed this variance request to allow for the continued use of a second residence on the property, as generally shown on the Site Plan Exhibit (see Exhibit 4).

Procedural

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variances of Development Standard. This petition is scheduled to receive its public hearing at the December 13, 2016, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.

Conditions: The UDO² and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO³ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy

¹ The UDO (Chapter 12) defines “Principal Building” as “[a] building in which is conducted the main or primary use of the Lot on which said building is located. Where a substantial portion of an ancillary building is attached to the Principal Building in a substantial manner, as by a roof, then such ancillary building shall be counted as a part of the Principal Building and not as an Accessory Building.”

² Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

³ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

Department Comments

If the Board is inclined to approve the variance, then the Department recommends approving the petition with the following findings:

Recommended Conditions:

1. The Property shall only be permitted one (1) driveway access onto 156th Street.
2. The Property shall not be permitted to be subdivided.
3. The Property and residential dwellings shall be held under the same ownership.

Recommended Findings for Approval:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the AG-SF1 District permits the proposed residential use and will otherwise comply with or exceed the applicable standards of the AG-SF1 District.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because: (i) the use is permitted and the property will be used for its current residential use; (ii) the parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 District; and (iii) the approval of the variance will allow for the continued use of the property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

December 13, 2016

1612-VS-07

Exhibit 1

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: Strict adherence to the zoning ordinance would result in the inability to use the property, as proposed, in accordance with the Unified Development Ordinance. The use is permitted by the Unified Development Ordinance and the existing improvements and parcel would otherwise be permitted and comply with the Unified Development Ordinance.



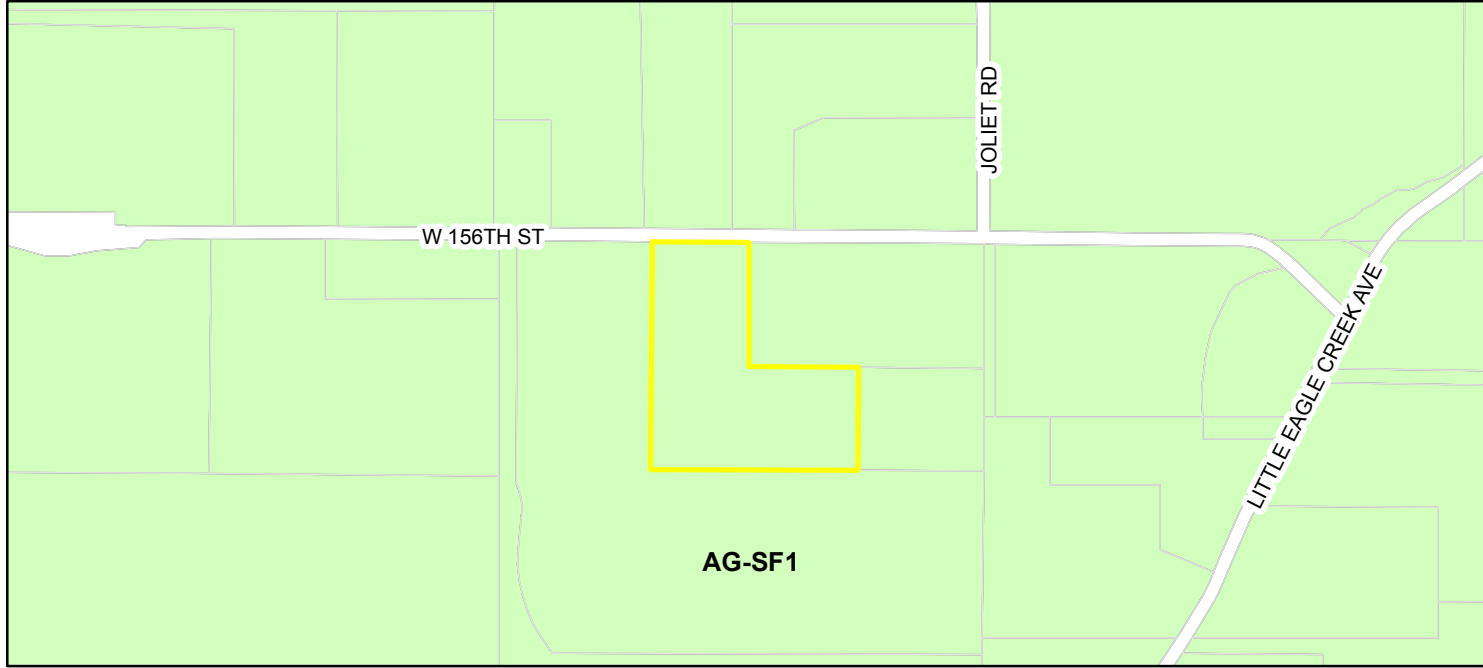
Property Location Map
1612-VS-07
4225 W. 156th Street



Aerial Location Map



Zoning Map



Parcel

Zoning - All

Zoning

AG-SF1 (Agriculture - Single Family - 1)

Aerial Location Map



VARIANCE APPLICATION

OFFICE
USE ONLY

DOCKET #: _____ FILING DATE: _____
FILING FEE: \$ _____ FEE PLUS \$ _____ PER ADDITIONAL VARIANCE (@ _____) = \$ _____

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Amanda Rubadue (STAFF NAME) DATE: 11/1/2016

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: _____ AMENDMENTS: _____ DEVELOPMENT PLAN: _____
PRIMARY PLAT: _____ SECONDARY PLAT: _____ VARIANCE(S): Development Standards

APPLICANT INFORMATION

APPLICANT'S NAME: Colin L. & Jennfer Cunningham TELEPHONE: _____
ADDRESS: 15125 New Haven Dr., Westfield, IN 46074 EMAIL: _____
PROPERTY OWNER'S NAME: Thomas D. Lee & Karen Lee TELEPHONE: _____
ADDRESS: 4225 W. 156th St Zionsville, IN 46077 EMAIL: _____
REPRESENTATIVE'S NAME: Ronald A. Wright TELEPHONE: 317-575-1900
COMPANY: Wright & Associates, PC EMAIL: ron@wrightattys.com
ADDRESS: 11550 N Meridian St #425 Carmel, IN 46032

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 4225 W. 156th St., Washington Twnsp., Hamilton Co. Zionsville, IN 46077
COUNTY PARCEL ID #(S): 290918000006000014
EXISTING ZONING DISTRICT(S): AG-SF1 EXISTING LAND USE(S): residential

VARIANCE REQUEST

☐ VARIANCE OF LAND USE CODE CITATION: _____
☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: Chap. 4, Section 16.04.030

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): _____

please see attached EXHIBIT A

EXHIBIT A

The variance herein requested was originally filed by previous owners Lonnie L. and May M. Tillery and styled as application #99-V-23. This application was conditionally approved by the board on July 19, 1999 for the then petitioner Lonnie L. and Mary M. Tillery "Only". Petitioners are seeking a reinstatement of this same variance so that they might purchase this property from its present owners.

Petitioner request a variance of frontage, lot size and subdivision platting developmental standards to permit division of the subject property to allow construction of a new single family residence and to allow continued use of an existing single family residence, as per plans filed.

WESTFIELD ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT APPLICATION FORM

APPLICANT AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.

Ronald A. Wright
Applicant/Representative (signature)

RONALD A. WRIGHT
Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this 2nd day of November, 2016.

State of _____, County of _____, SS:



SELGA I. ROZKALIS
NOTARY PUBLIC
HAMILTON COUNTY, INDIANA
COMMISSION EXPIRES: 9/8/18

Selga I. Rozkalis
Notary Public Signature

Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.

Thomas D. Lee by Virginia Williams POA
Property Owner (signature)

Thomas D. Lee
Property Owner (printed)

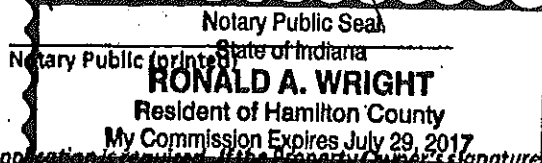
Karen L. Lee by Virginia Williams POA

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this 1 day of NOVEMBER, 2016.

State of _____, County of _____, SS:

Ronald A. Wright
Notary Public Signature



*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.

FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: Colin & Jennifer Cunningham

DOCKET #: _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below. A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

- A. The use will not be injurious to the public health, safety, morals, and general welfare of the community because: The landscape is wooded and screened off from other residences and will not be used as a rental property but only for visiting family members and invited guests who will be supervised by the petitioners.
- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: The area in question is bounded in part by an apple orchard, the value and security of which will be enhanced by the continuing use of the existing structure.
- C. The need for the variance arises from some condition particular to the property involved because: The site is "L" shaped with a pond making it difficult to divide thereby meeting ordinance requirements. In addition, petitioner has limited but vital family needs that will be met with a variance and does not intent to sell and would not be able to sell the property in sub parcels.
- D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: The petitioner cannot comfortably accomodate his family upon special occasions within the main residence
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: The area covered by the plan is highly stable and has been so even before the original variance was granted to the Tillerys in 1999. The current landowners have never recieved a complaint from neighbors regarding this additional building or its use.

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: _____

DOCKET #: _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below (if multiple variances of development standard are being requested, then this sheet should be completed separately for each requested variance). A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: _____

B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: _____

C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____

Legal Description for 4225 W. 156 St
Zionsville, IN 46077

A part of the Northwest Quarter of Section 18, Township 18 North, Range 3 East, located in Washington Township, Hamilton County, Indiana, being bounded as follows:
Commencing at the Northeast corner of the Northwest Quarter of Section 18, Township 18 North, Range 3 East; thence South 00 degrees 23 minutes 56 seconds East (assumed bearing) 660.55 feet along the East line of said Northwest Quarter to the Southeast corner of a 2.44 acre tract of land described in Instrument #1577 and recorded in Deed Record 283, page 626, in the records of Hamilton County, Indiana; thence North 89 degrees 41 minutes 18 seconds West 339.75 feet along the South line of said 2.44 acre tract of land to its Southwest corner and the POINT OF BEGINNING of this description; thence North 89 degrees 41 minutes 18 seconds West 544.00 feet along the Westerly extension of the South line of said 2.44 acre tract of land; thence North 01 degrees 07 minutes 24 seconds West 654.47 feet to a point on the North line of said Northwest Quarter, said point being 891.97 feet West of (measured along the North line of said Northwest Quarter) the Northeast corner of said Northwest Quarter; thence North 89 degrees 54 minutes 41 seconds East 263.05 feet along the North line of said Northwest Quarter to the Northwest corner of a 5.00 acre tract of land described in Instrument Number 563 and recorded in Deed Record 246, page 126, in said records; thence South 00 degrees 23 minutes 56 seconds East 346.32 feet along the West line of said 5.00 acre tract of land to its Southwest corner; thence North 89 degrees 54 minutes 41 seconds East 289.19 feet along the South line of said 5.00 acre tract of land to a point on the West line of said 2.44 acre tract of land; thence South 00 degrees 23 minutes 56 seconds East 311.86 feet along the West line of said 2.44 acre tract of land to the POINT OF BEGINNING. Containing 5.958 acre more or less.

MORGAN & ASSOCIATES, INC. by: Cathy A. Hitting
Authorized Officer Or Agent

NOTICE OF PUBLIC HEARING

DOCKET NO. _____

The Westfield-Washington Township Board of Zoning Appeals will hold a public hearing on the **13th day of December 2016**, at the City Hall, 130 Penn Street, Westfield, Indiana, at **7:00 p.m.**

The Application submitted by **Colin L. & Jennifer Cunningham** requests that a subdivision application be granted for the property located at **4225 W. 156th Street, Zionsville, IN 46077**.

Please see attached legal description.

The Westfield-Washington Township Board of Zoning Appeals would certify with a favorable recommendation, with an unfavorable recommendation, or with no recommendation. Interested persons may file written suggestions or objections concerning the request with the Westfield Economic and Community Development Department located 2728 East 171st Street, Westfield, Indiana 46074. Interested persons will be given the opportunity to be heard by the Sheridan Plan Commission at the above specified time and place.

Colin L. & Jennifer Cunningham
By attorney Ronald A. Wright
Wright and Associates, P.C.
11550 N. Meridian Street, Suite 425
Carmel, IN 46032
(317) 575-1900
(317) 575-6259 fax

Legal Description for 4225 W. 156 St
Zionsville, IN 46077

A part of the Northwest Quarter of Section 18, Township 18 North, Range 3 East, located in Washington Township, Hamilton County, Indiana, being bounded as follows:
Commencing at the Northeast corner of the Northwest Quarter of Section 18, Township 18 North, Range 3 East; thence South 00 degrees 23 minutes 56 seconds East (assumed bearing) 660.55 feet along the East line of said Northwest Quarter to the Southeast corner of a 2.44 acre tract of land described in Instrument #1577 and recorded in Deed Record 283, page 626, in the records of Hamilton County, Indiana; thence North 89 degrees 41 minutes 18 seconds West 339.75 feet along the South line of said 2.44 acre tract of land to its Southwest corner and the POINT OF BEGINNING of this description; thence North 89 degrees 41 minutes 18 seconds West 544.00 feet along the Westerly extension of the South line of said 2.44 acre tract of land; thence North 01 degrees 07 minutes 24 seconds West 654.47 feet to a point on the North line of said Northwest Quarter, said point being 891.97 feet West of (measured along the North line of said Northwest Quarter) the Northeast corner of said Northwest Quarter; thence North 89 degrees 54 minutes 41 seconds East 263.05 feet along the North line of said Northwest Quarter to the Northwest corner of a 5.00 acre tract of land described in Instrument Number 563 and recorded in Deed Record 246, page 126, in said records; thence South 00 degrees 23 minutes 56 seconds East 346.32 feet along the West line of said 5.00 acre tract of land to its Southwest corner; thence North 89 degrees 54 minutes 41 seconds East 289.19 feet along the South line of said 5.00 acre tract of land to a point on the West line of said 2.44 acre tract of land; thence South 00 degrees 23 minutes 56 seconds East 311.86 feet along the West line of said 2.44 acre tract of land to the POINT OF BEGINNING. Containing 5.958 acre more or less.

MORGAN & ASSOCIATES, INC.

by:

Carly A. Hitting
Authorized Officer Or Agent

Map Google Street View

Automatic

Click any parcel for parcel details.

N



[Parcel Disclaimer](#)
[Ruler](#)
[Legend](#)

© 2016 Microsoft Corporation. Microsoft, Bing, and the Microsoft Dynamics logo are either registered trademarks or trademarks of Microsoft Corporation in the United States and/or other countries. All other marks are the property of their respective owners.



ADJOINER
(NOTIFICATION LIST)

25⁰⁰

NOTE: DUE TO VOLUME AND TURNAROUND, ORDERS TAKE 3-5 BUSINESS DAYS FOR PROCESSING. TRANSFER AND MAPPING WILL APPROPRIATELY NOTIFY THE CONTACT WHEN THEIR ORDER IS READY TO BE PICKED UP.

DATE TAKEN: Oct 19

TIME TAKEN: 1:25

NAME OF PROPERTY OWNER: Lee, Thomas & Karen

NAME OF PETITIONER: " "

LEGAL DESCRIPTION OR PARCEL NUMBER OF PROPERTY:

4225 West 156th Street Zionsville
08-09-18-00-00-006.000

ZONING AUTHORITY APPLYING TO

- | | |
|---|--|
| ☐ ARCADIA | ☐ FISHERS PLAN COMMISSION |
| ☐ ATLANTA | ☐ HAMILTON COUNTY PLANNING |
| ☐ CARMEL BZA | ☐ NOBLESVILLE HOME OCCUPATION |
| ☐ CARMEL PLANNING | ☐ NOBLESVILLE PUBLIC HEARING |
| ☐ CICERO | ☐ SHERIDAN |
| ☐ FISHERS & FALL BZA | ☒ WESTFIELD - ?? |

SIGNATURE OF APPLICANT: via phone

DATE: 10.19.16

PERSON TO CONTACT: Ronald Wright

PHONE NUMBER: 317 575 1900

FOR OFFICE USE ONLY

EMPLOYEE INITIALS: _____

PAYMENT RECEIVED: _____

RECEIPT NUMBER: _____

E-MAIL WHEN COMPLETED: _____

HAMILTON COUNTY TRANSFER AND MAPPING
33 N. NINTH ST. • NOBLESVILLE, IN 46060
plats@hamiltoncounty.in.gov
P: 317.776.9624 F: 317.776.9682

HAMILTON COUNTY AUDITOR

I, DAWN COVERDALE, AUDITOR OF HAMILTON COUNTY, INDIANA, CERTIFY MY OFFICE HAS SEARCHED OUR RECORDS AND BASED ON THAT SEARCH, IT APPEARS THAT THE PROPERTY OWNERS MARKED AS NEIGHBORS ARE THE PROPERTY OWNERS THAT ARE TWO PROPERTIES OR 660' FEET FROM THE REAL ESTATE MARKED AS SUBJECT PROPERTY.

THIS DOCUMENT DOES NOT CERTIFY THAT THE ATTACHED LIST OF PROPERTY OWNERS IS ACCURATE OR INCLUDES ALL PROPERTY OWNERS ENTITLED TO NOTICE PURSUANT TO LOCAL ORDINANCE. ANY PERSON SEEKING A MORE ACCURATE SEARCH OF THE REAL ESTATE RECORDS OF THE COUNTY SHOULD SEEK THE OPINION OF A TITLE INSURANCE COMPANY.

DAWN COVERDALE, HAMILTON COUNTY AUDITOR

DATED:

Barton Giesenauer

10/20/2016

SUBJECT PROPERTY:

08-09-18-00-00-006.000

Subject

Lee, Thomas D & Karen L

4225 156th St W

Zionsville

IN

46077

Pursuant to the provisions of Indiana Code 5-14-3-3-(e), no person other than those authorized by the County may reproduce, grant access, deliver, or sell any information obtained from any department or office of the County to any other person, partnership, or corporation. In addition any person who receives information from the County shall not be permitted to use any mailing list, addresses, or databases for the purpose of selling, advertising, or soliciting the purchase of merchandise, goods, services, or to sell, loan, give away, or otherwise deliver the information obtained by the request to any other person.

HAMILTON COUNTY NOTIFICATION LIST

PLEASE NOTIFY THE FOLLOWING PERSONS

08-09-07-00-00-021.000

Neighbor

✓ Fleck, Timothy J & Rebecca J

15733 Joliet Rd

Westfield

IN

46074

08-09-07-00-00-032.001

Neighbor

└ Kaster, Craig A & Mary C

4300 W 156th St

Zionsville

IN

46077

08-09-07-00-00-032.101

Neighbor

✓ Crimmins, Zachary & Lauren C Esping jtrs

15636 Joliet Rd

Westfield

IN

46074

08-09-07-00-00-032.201

Neighbor

✓ Gagan, Jeremy L Rev Trust

15734 Joliet Rd

Westfield

IN

46074

08-09-07-00-00-032.211

Neighbor

✓ Wine, Amanda L

15630 Joliet Rd

Westfield

IN

46074

08-09-07-00-00-032.301

Neighbor

✓ Knight, Jon P & Dawn K

4304 156th St W

Zionsville

IN

46077

08-09-07-00-00-036.000

Neighbor

✓ Harris, Linda Mae

4326 W 156th ST

Zionsville

IN

46077

08-09-18-00-00-004.000

Neighbor

└ Gonzalez Piriz, Sergio F

✓ 4325 W 156TH ST

Zionsville IN 46077

08-09-18-00-00-005.001

Neighbor

Boots, David & Amy

✓ 4321 W 156th St

Zionsville IN 46077

08-09-18-00-00-007.000

Neighbor

✓ Todd, David L & Linda K

4125 W 156TH ST

Zionsville IN 46077

08-09-18-00-00-008.000

Neighbor

— Todd, David L & Linda K

4125 156th St W

Zionsville IN 46077

08-09-18-00-00-009.000

Neighbor

✓ Beck, Brian D

15448 Little Eagle Creek Ave

Zionsville IN 46077

08-09-18-00-00-009.101

Neighbor

Beck, Brian

→ 15448 Little Eagle Creek Ave

Zionsville IN 46077

08-09-18-00-00-014.001

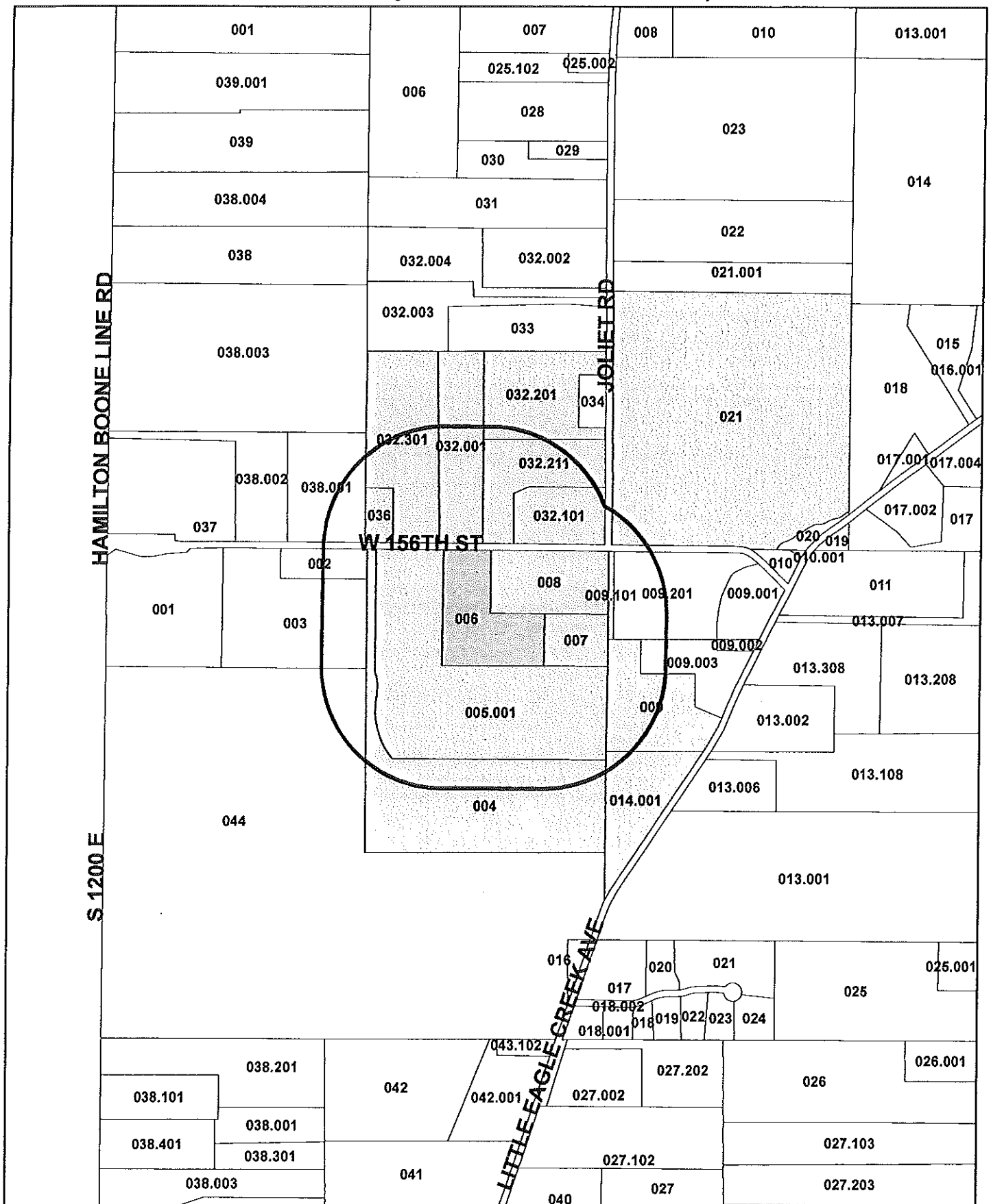
Neighbor

✓ Miller, Kenneth W Jr & Deborah A h&w te

15290 Little Eagle Creek Ave

Zionsville IN 46077

Adjoiner Notification Map



Legend

 Buffer
 Notification Parcels
 Subject



20.00
1.00 non NC
DULY ENTERED FOR TAXATION J
Subject to final acceptance for transfer
1 day of February, 2006
Robin M. Miller Auditor of Hamilton County
Parcel # 08-07-18-00-00-0006.000

200600005077
Filed for Record in
HAMILTON COUNTY, INDIANA
JENNIFER J HAYDEN
02-01-2006 At 11:58 am.
WARR DEED 20.00

WARRANTY DEED

File: 06010013

THIS INDENTURE WITNESSETH, That Lonnie L. Tillery and Mary M. Tillery, husband and wife ("Grantor") of Lee County, in the State of Indiana, CONVEYS AND WARRANTS to Thomas D. Lee and Karen L. Lee, husband and wife ("Grantee") of Hamilton County, in the State of Indiana, for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate located in Hamilton County, in the State of Indiana:

See EXHIBIT A attached hereto and made a part hereof.

This conveyance is subject to:

All rights-of-way, easements, agreements, restrictions and limitations of record; and
All real estate taxes due and payable in May, 2006 and thereafter.

IN WITNESS WHEREOF, Grantor has executed this Warranty Deed
this 30 day of January, 2006.

Lonnie L. Tillery
Lonnie L. Tillery

STATE OF Indiana)
COUNTY OF marion) SS:

Before me, a Notary Public in and for said County and State, personally appeared Lonnie L. Tillery, who acknowledged the execution of the foregoing document, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal on this 30 day of January 2006.

My Commission Expires:

Signature: Mary M. Auberry

Printed: _____

Notary Public

County of Residence _____



IN WITNESS WHEREOF, Grantor has executed this Warranty Deed
this 24 day of January, 2006.



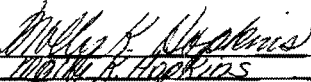
Mary M. Tillery

STATE OF FLORIDA }
COUNTY OF Lee } SS:

Before me, a Notary Public in and for said County and State, personally appeared Mary M. Tillery, who acknowledged the execution of the foregoing document, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal on this 24th day of Jan 2006.



Signature: 
Printed: MOLLY K. HOPKINS, Notary Public

Signed
Common Address: 4225 W 156th Street, Zionsville, Indiana 46077
Parcel No.: 08-09-18-00-00-006.000

THIS INSTRUMENT PREPARED BY DAVID A. SCHMITZ, ATTORNEY AT LAW
9201 N. Meridian Street, Suite 100, Indianapolis, IN 46260 (317) 571-6969

Send tax statements to Grantee at the Common Address noted above unless an alternative address is provided hereafter: _____

EXHIBIT A

A part of the Northwest Quarter of Section 18, Township 18 North, Range 3 East, located in Washington Township, Hamilton County, Indiana, being bounded as follows: Commencing at the Northeast corner of the Northwest Quarter of Section 18, Township 18 North, Range 3 East; thence South 00 degrees 23 minutes 56 seconds East (assumed bearing) 880.55 feet along the East line of said Northwest Quarter to the Southeast corner of a 2.44 acre tract of land described in Deed recorded in Deed Record 283, page 626 as Instrument No. 1577, in the Office of the Recorder of Hamilton County, Indiana; thence North 89 degrees 41 minutes 18 seconds West 339.75 feet along the South line of said 2.44 acre tract of land to its Southwest corner and the Point of Beginning of this description; thence North 89 degrees 41 minutes 18 seconds West 544.00 feet along the Westerly extension of the South line of said 2.44 acre tract of land; thence North 01 degree 07 minutes 24 seconds West 654.47 feet to a point on the North line of said Northwest Quarter, said point begin 891.97 feet West of (measured along the North line of said Northwest Quarter) the Northeast corner of said Northwest Quarter; thence North 89 degrees 54 minutes 41 seconds East 283.05 feet along the North line of said Northwest Quarter to the Northwest corner of a 5.00 acre tract of land recorded in Deed Record 246, page 128 as Instrument No. 563, in the Office of the Recorder of Hamilton County, Indiana; thence South 00 degrees 23 minutes 56 seconds East 348.32 feet along the West line of said 5.00 acre tract of land to its Southwest corner; thence North 89 degrees 54 minutes 41 seconds East 289.19 feet along the South line of said 5.00 acre tract of land to a point on the West line of said 2.44 acre tract of land; thence South 00 degrees 23 minutes 56 seconds East 311.86 feet along the West line of said 2.44 acre tract of land to the Point of Beginning, containing 5.958 acres, more or less.

For information purposes Only:

Common Address:	4225 W 156th Street, Zionsville, Indiana 46077
Tax Parcel Number:	08-08-18-00-00-006.000
TSLC File #:	06010013

Best Possible Image

06010013

Prescribed by the
State Board of Accounts
(2005)

County Form 170

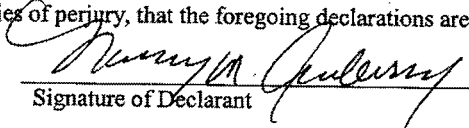
Declaration

This form is to be signed by the preparer of a document and recorded with each document in accordance with IC 36-2-7-5-5(a).

I, the undersigned preparer of the attached document, in accordance with IC 36-2-7-5, do hereby affirm under the penalties of perjury:

1. I have reviewed the attached document for the purpose of identifying and, to the extent permitted by law, redacting all Social Security numbers;
2. I have redacted, to the extent permitted by law, each Social Security number in the attached document.

I, the undersigned, affirm under the penalties of perjury, that the foregoing declarations are true.


Signature of Declarant

NANCY M AUBERRY
Printed Name of Declarant

WARRANTY DEED

THIS INDENTURE WITNESSETH That **THOMAS D. LEE and KAREN L. LEE**, husband and wife, (Grantor), of Hamilton County, in the State of Indiana, CONVEY(S) AND WARRANT(S) to **COLIN CUNNINGHAM and JENNIFER CUNNINGHAM**, husband and wife, (Grantee), of Hamilton County, in the State of Indiana, for the sum of Ten and No/100 Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Hamilton County, State of Indiana:

As per the legal description on Exhibit A attached hereto and made a part hereof by this reference.

This Deed is being executed by Virginia A. Williams as the Attorney in Fact for and on behalf of Karen L. Lee, An Adult, pursuant to those certain Durable Power of Attorney dated April 2, 2014 and recorded _____, 201__, as Instrument No. _____ in the records of the Office of the Recorder of Hamilton County, Indiana, which said Special Power of Attorney has not been revoked and remains in full force and effect as of the date of execution hereof.

Subject to real estate property taxes for the second half of 2015, due and payable on November 10, 2016, and subject to real estate property taxes due and payable thereafter.
Taxing Unit: Washington

Parcel No.: 08-09-18-00-006.000/29-09-18-000-006.000-014

Subject to any and all easements, agreements and restrictions of record.

The address of such real estate is commonly known as 4225 West 156th Street, Zionsville, Indiana 46077.

IN WITNESS WHEREOF, Grantor has executed this deed this 14th day of

November, 2016.

GRANTOR:

Thomas D. Lee
Signature

THOMAS D. LEE

Printed

Karen L. Lee by her attorney in fact,

Virginia A. Williams
Signature

KAREN L. LEE, by her Attorney in
Fact, Virginia A. Williams

Printed

STATE OF INDIANA

COUNTY OF Hamilton

)
) SS:
)

Before me, a Notary Public in and for said County and State, personally appeared **THOMAS D. LEE and KAREN L. LEE, by her Attorney in Fact, Virginia A. Williams**, husband and wife, who acknowledged the execution of the foregoing Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 14th day of November, 2016.

My Commission Expires:

Signature

Printed

Notary Public

Residing in

County, State of Indiana.





WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

December 13, 2016

1612-VS-16

Petition Number: 1612-VS-16

Subject Site Address: 303 E. 161st Street

Petitioner: Noah Herron (Urban Vines, LLC)

Request: The petitioner requests a Variance of Standard to allow a second monument sign for an Agritourism Use in the AG-SF1: Agriculture Single Family Rural District.

Current Zoning: AG-SF1: Agriculture Single Family Rural

Current Land Use: Urban Vines (Agritourism Use)

Approximate Acreage: 5.0 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Sign Elevations
5. Existing Conditions

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is 5.0 acres +/- in size and located at 303 E. 161st Street (**see Exhibit 2**) (the "Property"). The Property is zoned AG-SF1: Agriculture Single Family Rural. Immediately adjacent properties are zoned AG-SF1 while the Countryside subdivision northeast of the Property is zoned SF-3 Cluster.

Property History: The Property was granted a Special Exception to allow an Agritourism Use (vineyard and winery) as well as multiple Variances of Development Standard at the April 12, 2016, Board of Zoning Appeals (BZA) meeting. Variances granted include landscaping standards, screening of receptacles and loading areas, off-street parking surfacing and curbs, and architectural standards.

Requested Variances: The petitioner is requesting a Variance of Standard to allow a second monument sign at the entrance, as further described herein.

VARIANCE REQUEST

The Property is currently subject to the Individual Nonresidential Sign standards (Article 6.17(H)) of the Westfield-Washington Township Unified Development Ordinance (the “UDO”). The UDO permits a maximum of one (1) Monument sign for each public Street Frontage per Lot¹ for an Individual Nonresidential Use. The total Sign Allocation permitted is one (1) square foot of Sign Area for each one (1) linear foot of building fronting on a public Right-of-Way. The length of the building fronting along 161st Street is ninety-nine (99) feet, thus the property would be permitted ninety-nine (99) square feet of Sign Area.

On October 28, 2016, the Department approved a sign permit (16-S-81) for one (1) monument sign, and one (1) wall sign, each sixteen (16) square feet in Sign Area, to be installed on the east side of the entrance (**see Exhibit 4**), and on the front building façade respectively. The property includes fencing along 161st Street, which angles on both sides of the entrance (**see Exhibits 3 & 4**). The Petitioner is requesting a Variance of Development Standard to allow a second monument sign, identical to the one already permitted, to be placed on the west side of the entrance.

The proposed sign has the same dimensions and is composed of the same material as the signs granted a permit in October as depicted on the Sign Elevations (**see Exhibit 4**). Collectively, the two (2) entrance signs and one (1) wall sign would be forty-eight (48) square feet, which is less than the otherwise permitted Sign Area for the property. In order to accommodate the proposed sign, a Variance of Development Standard is required.

The petitioner has indicated the proposed sign is intended to help guide westbound deliveries and visitors that might otherwise bypass the property as the eastern sign is only visible to eastbound traffic. The proposed sign will also symmetrically complement the existing sign and entrance design.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the December 13, 2016, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.

Conditions: The UDO² and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location,

¹ Article 6.17(H)(2) Sign Standards; Monument Signs of the UDO

² Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO³ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

DEPARTMENT COMMENTS:

If the Board is inclined to approve the Variance of Development Standards (1612-VS-06), then the Department recommends the following written findings of fact and conditions:

1. **Signs shall be installed in substantial compliance (e.g. design, size, location) with the Site Plan (Exhibit 3) and Sign Elevations (Exhibit 4).**
2. **The property shall not exceed the maximum Sign Area otherwise set forth by the Unified Development Ordinance.**

³ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

December 13, 2016

1612-VS-16

Recommended Findings for Approval: If the Board is inclined to approve the variance, then the Department recommends the findings as set forth below, for each variance:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the sign type is a permitted sign and the collective size of the proposed monument signs will not exceed the otherwise permitted sign area.

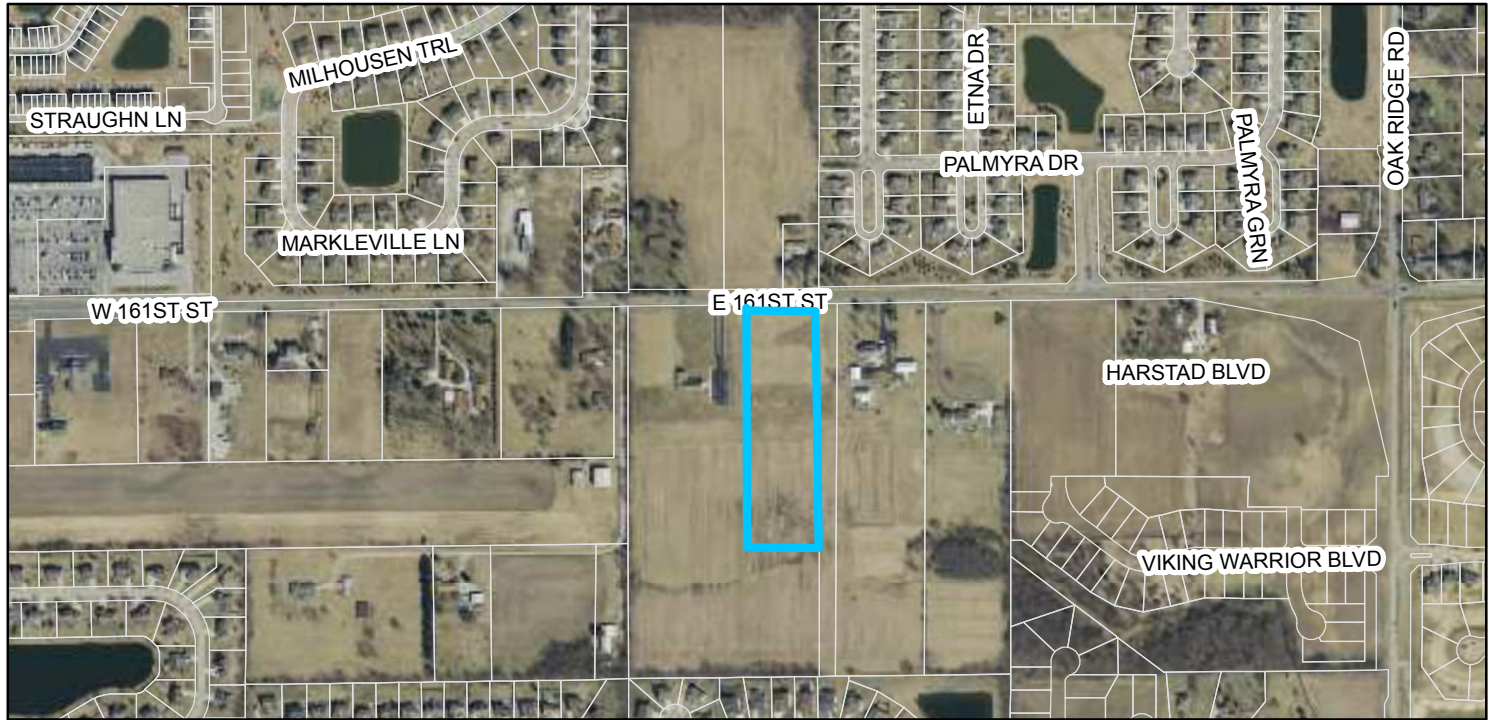
- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because: (i) the existing and proposed improvements enhance the circulation patterns within and around the property; (ii) the parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 District and the granted variances applicable to the Property; and (iii) the approval of the variance will allow for the continued use and improvement of the property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.

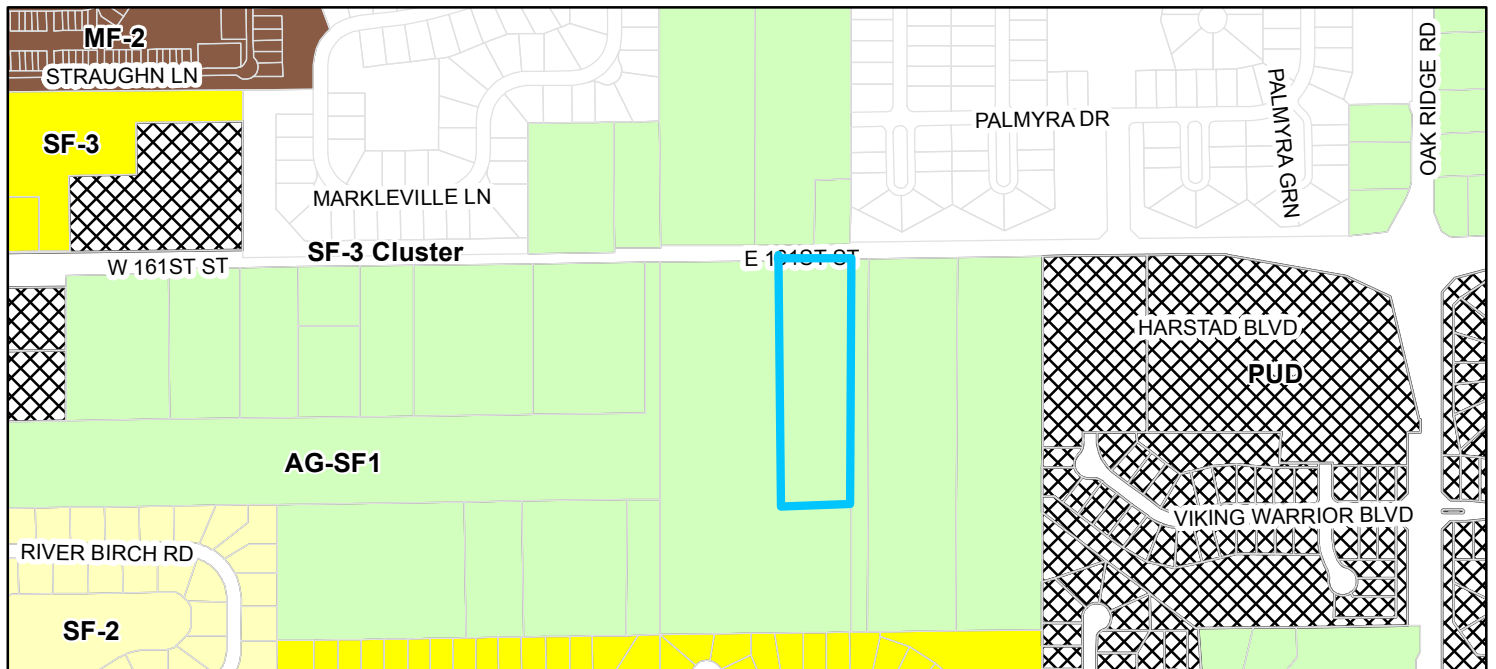
- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

Finding: Strict adherence to the zoning ordinance would prohibit the proposed sign, which is consistent with the use's character and theme as set forth by the granted Special Exception, and the sign would otherwise comply with or exceed the applicable standards.

Aerial Location Map



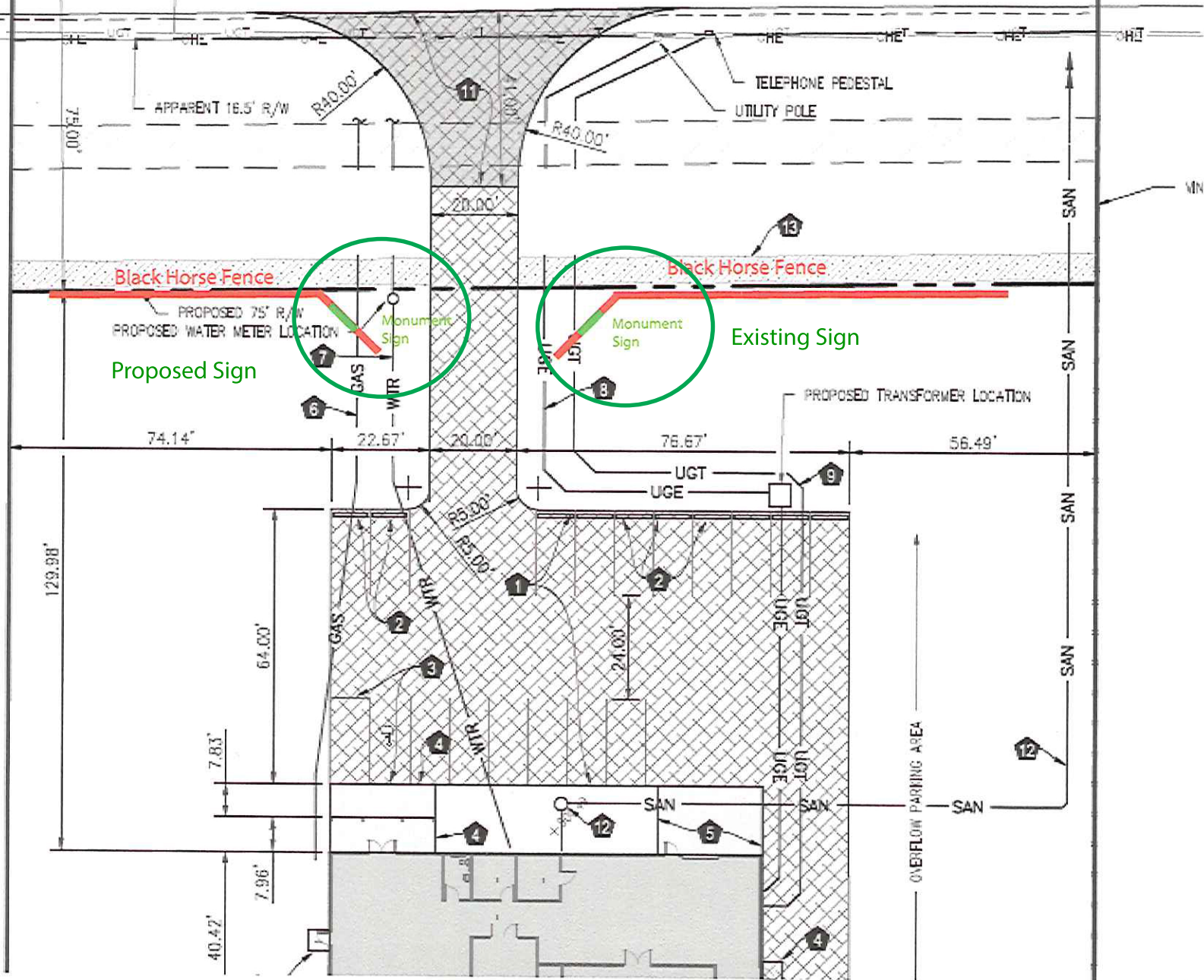
Zoning Map



Parcel	Zoning	MF-2 (Multiple Family - 2)	SF-2 (Single Family - 2)
	AG-SF1 (Agriculture - Single Family - 1)	PUD (Planned Unit Development)	SF-3 (Single Family - 3)

161ST STREET

N89° 13' 00"E 250.00'
N89° 10' 59"E 250.00' [DEED]



Black Horse Fence

PROPOSED 75' R/W
PROPOSED WATER METER LOCATION
Proposed Sign

Black Horse Fence

Monument Sign
Existing Sign

PROPOSED TRANSFORMER LOCATION

OVERFLOW PARKING AREA

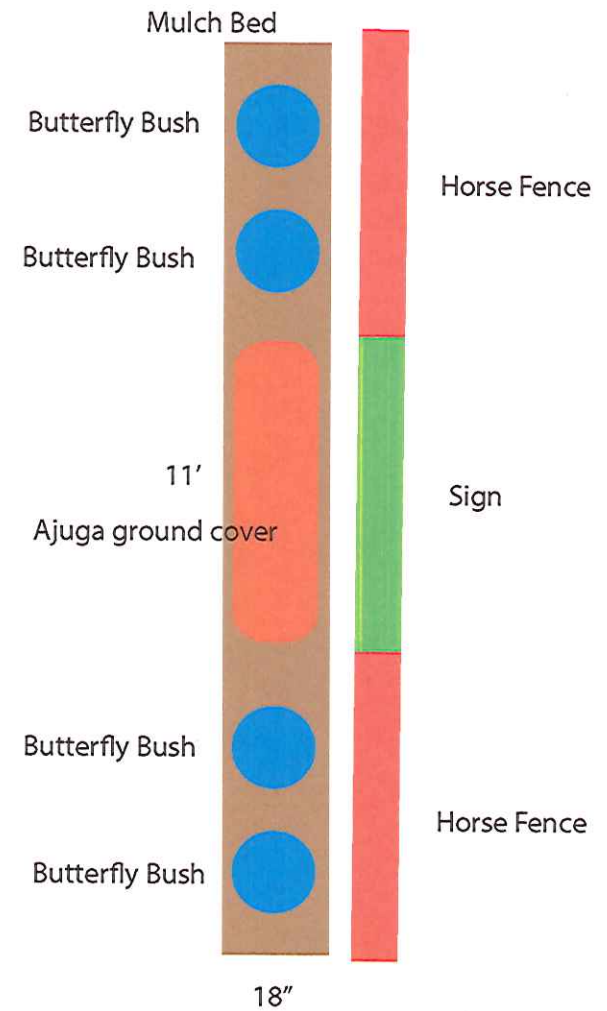
Wall Sign



Monument Sign

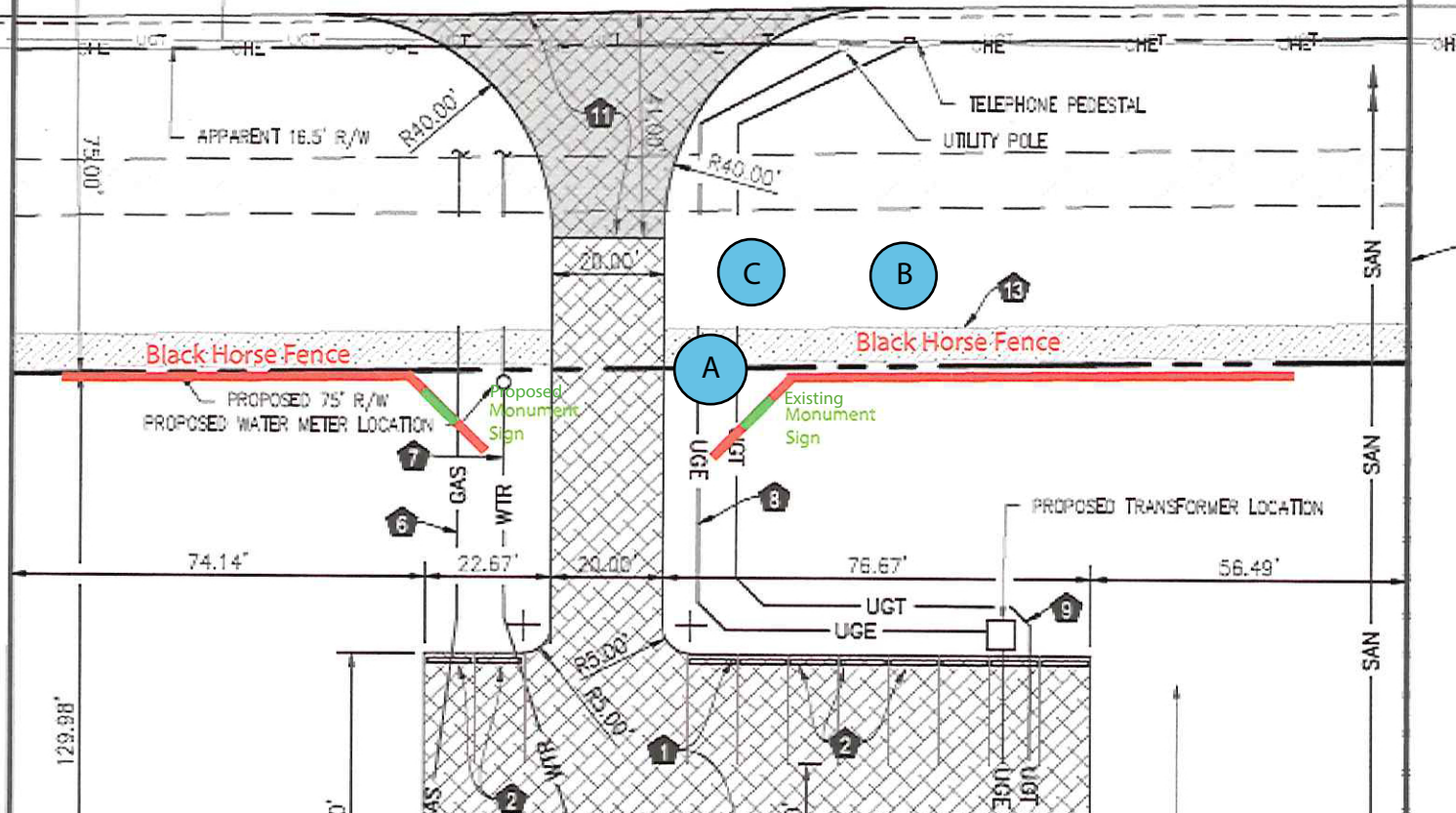


Landscaping Plan



161ST STREET

N89° 13' 00"E 250.00'
N89° 10' 59"E 250.00' [DEED]



A



B







WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

December 13, 2016

1612-VS-17

Exhibit 1

Petition Number: 1612-VS-17

Subject Site Address: 18300 Block of Joliet Road, Parcel No. 08-05-31-00-00-004.000 (the "Property")

Petitioner: TNA Enterprises (the "Petitioner")

Request: The petitioner is requesting a Variance of Development Standard to reduce the Minimum Lot Frontage in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(D)).

Current Zoning: AG-SF1: Agriculture/Single-Family Rural

Current Land Use: Undeveloped

Approximate Acreage: 15.76 +/- acres

Exhibits:

1. Staff Report
2. Location Map
3. Application
4. Petitioner's Plans

Staff Reviewer: Pam Howard, Associate Planner

OVERVIEW

Location: The Property is 15.76 acres +/- in size and located in the 18300 Block Joliet Road (see [Exhibit 2](#)). The Property is zoned the AG-SF1: Agriculture/Single-Family Rural District. The Property is currently undeveloped. The surrounding properties are also zoned AG-SF1.

Property History: Until 2015, the Property was part of a larger 25.48-acre parcel (the "Parent Parcel"), as outlined in red in Figure 1.

On March 10, 2015¹, the Parent Parcel was illegally subdivided², and a five (5) acre parcel ("Parcel A" as depicted in Figure 1) was sold to an adjacent owner. Parcel A currently exists as a landlocked parcel.

On October 24, 2016³, the remaining 20.48-acre parcel was further illegally subdivided into 2 parcels ("Parcel B" and "Parcel C" as depicted in Figure 1). Parcel B is 4.72 acres and complies

¹ Warranty Deed recorded as Instrument No. 2015-10813 in the Office of the Recorder of Hamilton County, Indiana, on March 10, 2015.

² Article 10.12(C)(2) Processes and Permits; Subdivision; Approval Process; Minor Subdivisions

³ Warranty Deed recorded as Instrument No. 2016-55986 in the Office of the Recorder of Hamilton County, Indiana, on October 24, 2016.

with all AG-SF1 standards; however, Parcel C, the subject property of this Variance, is 15.76 acres and does not comply with the Minimum Lot Frontage requirement for the AG-SF1 District.

On October 24, 2016⁴, the Petitioner purchased the Property with the intent to use the property for an agricultural business. The Petitioner contacted the Department prior to acquiring the property to determine whether the business is a permitted use in the AG-SF1 District. Through conversations with the Petitioner, review of an executive summary of the business, and additional research conducted by the Department; the Department determined the proposed use is an Agricultural Use⁵, as defined by the Unified Development Ordinance, and is a permitted use in the AG-SF1 Zoning District⁶. The land use of the property is not the subject of this variance request.

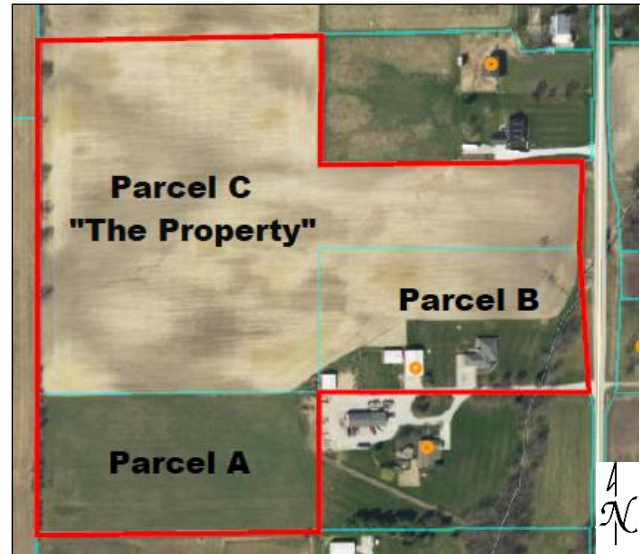


Figure 1: Parcel Exhibit

SUMMARY OF VARIANCE

As summarized above, the existing parcel is a result of a series of illegal subdivisions that have resulted in the current nonconforming parcel. As a result, the Petitioner is requesting this variance to bring the parcel into compliance with the AG-SF1 District standards. Regardless of the Board's determination with respect to this variance, the Department is pursuing the enforcement to require the approval of Minor Subdivision(s)⁷ for the illegally subdivided parcels.

⁴ Warranty Deed recorded as Instrument No. 2016-55986 in the Office of the Recorder of Hamilton County, Indiana, on October 24, 2016.

⁵ The UDO defines "Agricultural Use" as "[t]he use of land for farming, including plowing, tilling, cropping, installation of best management practices, seeding, cultivating, or harvesting for the production of food and fiber products (except commercial logging and timber harvesting operation); the grazing or raising of Livestock (except in confined feed yards); dairy farming; aquaculture; sod production; horticulture; orchards; tree farms; and the cultivation of products as part of a recognized commercial enterprise; and related buildings (e.g., barns, Stables, sheds, feeding bins)."

⁶ Article 4.2(B) AG-SF1: Agriculture / Single-Family Rural District; Permitted Uses and Chapter 13 Use Table of the UDO identify Agricultural Uses as a permitted use in the AG-SF1 District.

⁷ The UDO defines "Minor Subdivision" as "[a] Subdivision along an existing Street, not involving the opening, widening, or extension of any Street (public or private), and involving not more than five (5) Lots, all of which are greater than three (3) acres, after the original tract has been completely subdivided."



Variance Request: The Petitioner is requesting this variance to reduce the Minimum Lot Frontage⁸, as described in the Petitioner's Statement of Intent (see Exhibit 3). The existing parcel has a Lot Frontage of 209 feet along Joliet Road.

Article 4.2(D) AG-SF-1 Agriculture/Single-Family Rural District; Minimum Lot Frontage:
250 Feet

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this Property within the "Rural Northwest" land use classification.

The Comprehensive Plan identifies appropriate land uses in this land use classification to include: (i) Single-family detached houses on large lots or in a Rural or Conservation Subdivision; (ii) accessory dwellings; (iii) equestrian uses; (iv) agriculture, including artisan farms⁹; and (v) institutional uses.

Development policies of this land use classification, which are applicable to the proposed use, include¹⁰: (i) Large-scale commodity farms (crops and livestock) are subject to eventual change due to growth pressure; (ii) allow the continuation of the historic rural patterns, including homestead farms artisan farms, and equestrian uses; (iii) preserve the night sky by limiting lighting.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the December 13, 2016, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO¹¹ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location,

⁸ The UDO defines "Lot Frontage" as "[t]he length of the Front Lot Line." The UDO defines "Lot Line, Front" as "[a] Lot Line abutting a Street (public or Private Street). A through Lot and Corner Lot will have multiple Front Lot Lines."

⁹ Appendix A of the Westfield-Washington Township Comprehensive Plan defines "Artisan Farm" as "[a] small farm with owners living on site that produces goods or services for the local table market (not the commodity market). This term includes but is not limited to orchards, tree nurseries, hay, vegetables, and the raising of limited numbers of animals such as horses, llamas, alpacas, sheep, goats, and chickens.

¹⁰ Westfield-Washington Township Comprehensive Plan, page 32.

¹¹ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.



landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO¹² requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

Department Comments

Approval: If the Board is inclined to approve the variance, then the Department recommends the following conditions and findings:

Recommended Conditions:

1. A Minor Subdivision(s) shall be approved for the illegally subdivided parcels (collectively, Parcel A, Parcel B and Parcel C as described herein) prior to the approval of development plan or issuance of an improvement location permit, whichever occurs first.

¹² Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



2. A Detailed Development Plan shall be required and approved by the Plan Commission for an Agricultural Use of similar intensity to what is depicted on the concept plan, as determined by the Director, prior to the use commencing on the Property¹³.
3. The standards of Article 6.3(D) Development Standards; Architectural Standards; Single-family Districts (Non-Residential Uses) shall apply to the Property.

Recommended Findings for Approval:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the AG-SG1 District permits the proposed improvements and the resulting improvements and parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 District.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner because the AG-SG1 District permits the proposed improvements and the resulting improvements and parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 District.

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: Strict adherence to the zoning ordinance would result in the inability to build upon the Property.

Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

¹³ Agricultural Uses would not typically require approval of a Detailed Development Plan (see Article 4.2(J) AG-SF1: Agriculture/Single-Family Rural District; Development Plan Review of the UDO); however, the community is beginning to see an increase in more intense Agricultural Uses that characteristically are more commercial or industrial in nature. As a result, due to the intensity and nature of these types of uses, the Department believes a more detailed review is warranted to ensure the use is designed and operated in a contextually sensitive manner.

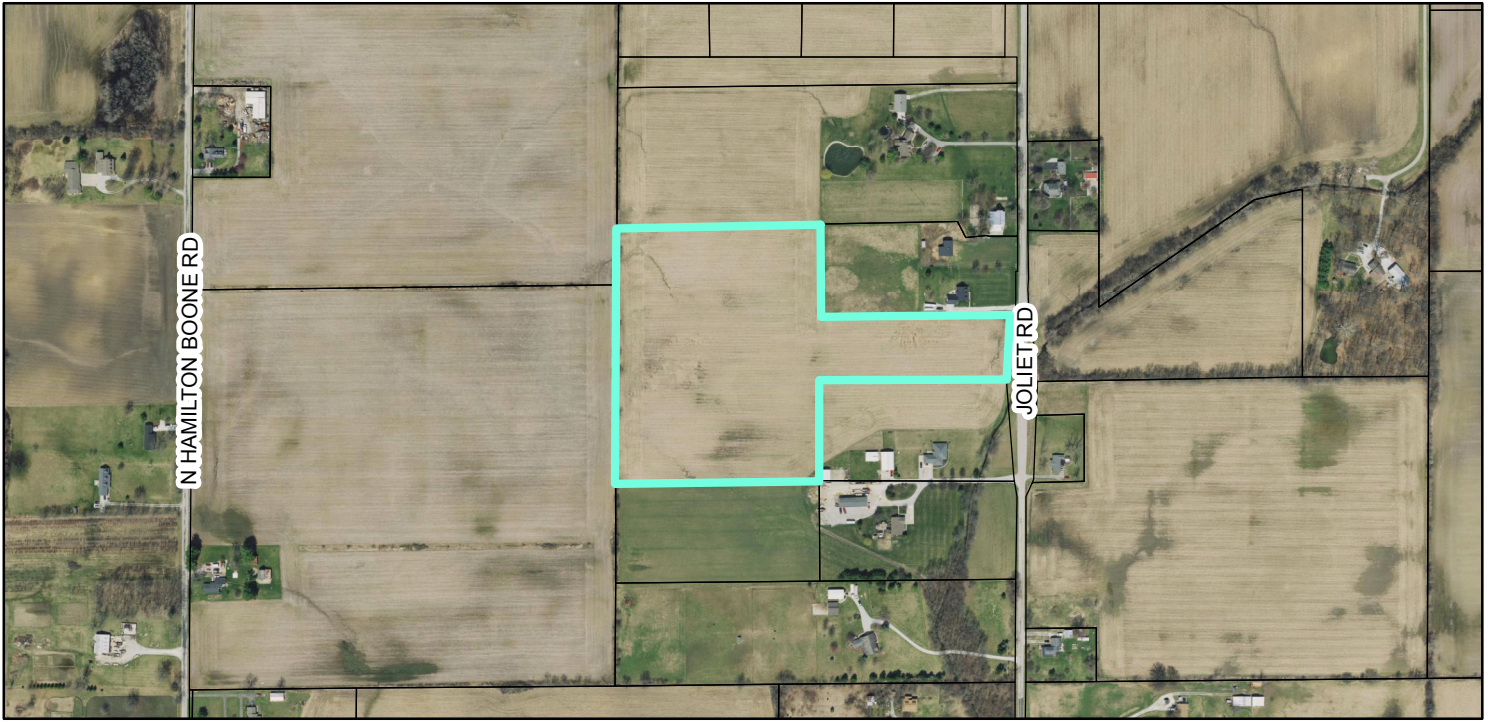


Location Map
TNA Enterprises
Variance of Development Standard
1612-VS-17

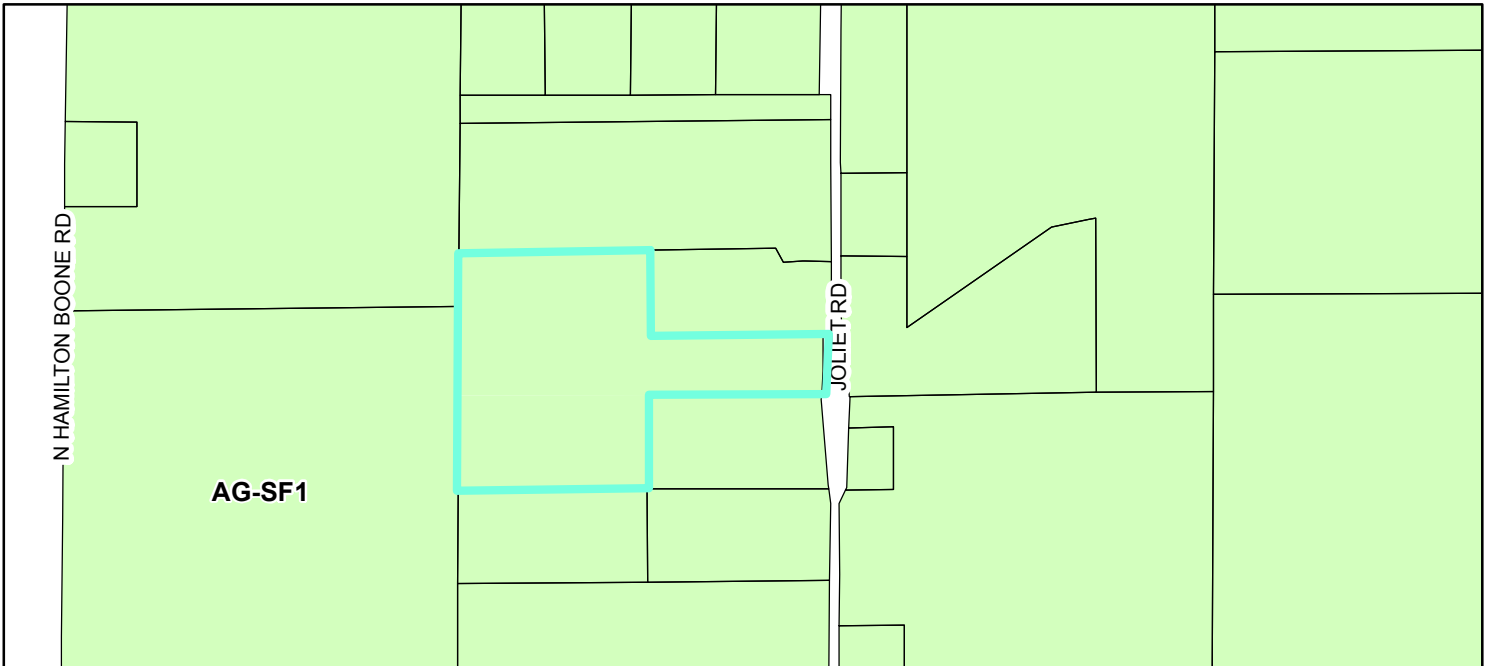


Aerial Location Map

Site



Zoning Map



Zoning

AG-SF1 (Agriculture - Single Family - 1)

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

VARIANCE APPLICATION

OFFICE
USE ONLYDOCKET #: 1612-VS-17FILING DATE: 11-4-16

FILING FEE: \$ _____ FEE PLUS \$ _____ PER ADDITIONAL VARIANCE (@ _____) = \$ _____

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: _____ (STAFF NAME) DATE: _____

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: _____ AMENDMENTS: _____ DEVELOPMENT PLAN: _____

PRIMARY PLAT: _____ SECONDARY PLAT: _____ VARIANCE(S): _____

APPLICANT INFORMATION

APPLICANT'S NAME: TNA Enterprises LLC TELEPHONE: 260 665 7777ADDRESS: 406 W Maumee St, Angola IN 46703 EMAIL: troy@allamericanshrimp.comPROPERTY OWNER'S NAME: Same TELEPHONE: _____

ADDRESS: _____ EMAIL: _____

REPRESENTATIVE'S NAME: Austin S Budreau TELEPHONE: 765 404 4565COMPANY: TNA Enterprises LLC EMAIL: austin@angolanagent.comADDRESS: 16516 Brookhollow Dr, Westfield IN 46062

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 18340 Joliet Rd, Sheridan IN, 46069COUNTY PARCEL ID #(S): 08-05-31-00-00-004.000EXISTING ZONING DISTRICT(S): Washington EXISTING LAND USE(S): Agricultural AG-SF1

VARIANCE REQUEST

☐ VARIANCE OF LAND USE CODE CITATION: _____☐ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: _____FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): _____

Current Zoning requires 250' of road frontage with 3 acres for the construction of improvements.

We request a variance to allow for construction of an approved agricultural accessory building on 15.76 acres with 209' of frontage. Accessory Building will be in accordance with current zoning and building code guidelines.



APPLICANT AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.

[Signature]
Applicant/Representative (signature)

Austin S Budreau
Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this 4th day of November, 2016

State of IN, County of Hamilton ss:

Linda Aton
Notary Public Signature

Linda Aton
Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.

[Signature]
Property Owner (signature)*

Austin S Budreau
Property Owner (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this 4th day of November, 2016

State of IN, County of Hamilton ss:

Linda Aton
Notary Public Signature

Linda Aton
Notary Public (printed)

*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM
FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)



APPLICANT: _____

DOCKET #: _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below (if multiple variances of development standard are being requested, then this sheet should be completed separately for each requested variance). A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

- A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: _____

Please See Attached

- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: _____

- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____

- A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because:

TNA Enterprises intends to construct a single agricultural use structure that complies with all agricultural AG-SF1 criteria with the exception of 41' of the required 250' of lot frontage. Please see the attached example of a site plan for an illustration of set-back compliance.

Furthermore, the addition of our structure will seamlessly align with the current agricultural development of the immediate area. Health & Safety are at the forefront of TNA Enterprises goal of Fresh, Locally Grown, Sustainable products to be consumed in our local community. This goal strikes a healthy balance between ecology, community, culture, and economy.

- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

TNA Enterprises will construct the building of high value, high quality materials. We will meet, and in most cases exceed minimum landscaping requirements so as to be aesthetically pleasing.

We will develop the land in such a manner as to far exceed current zoning standards and will include Apple, Cherry, Black Walnut and Pine trees. Additional vegetation will be planted to further enhance the land value and protect the value of our neighbors' homes and land investments.

Values are based in large part on the potential and ability of people to occupy and use land. Our building and agricultural processes comply with all zoning, except for the 16% road frontage shortfall mentioned above. Approving this variance request will not depreciate any adjacent property values, but rather increase adjacent property values.

- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because:

It would not allow for measured and moderated growth and development of a sound, long range planning business like TNA Enterprises. TNA Enterprises has tremendous respect for natural resources, transportation, homes, businesses and other community infrastructure, and the goals of the Greater Hamilton County Area and Community.

Legend

 Flag Pole

 Green Space/Land Scaping

 Curbed Green space

 Driving area

 Sign

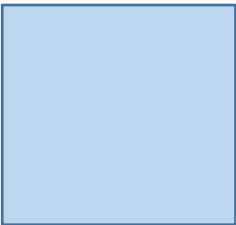
 Property Boundary

 Set back boundary

 Parking Stalls

 Dumpster

 Rention Ponds (if required by zoning/surveyor)

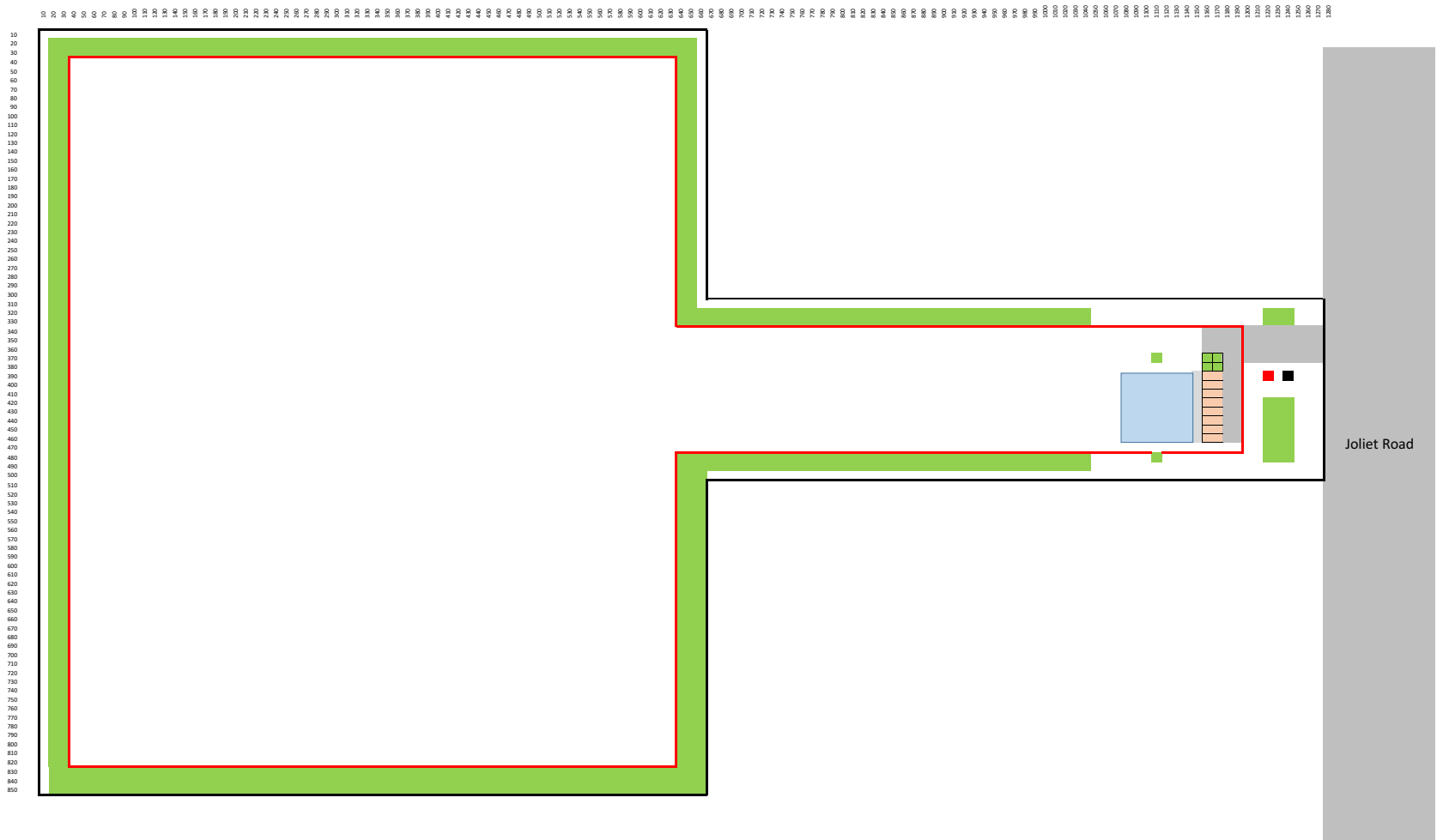


Initial building
80"x80'

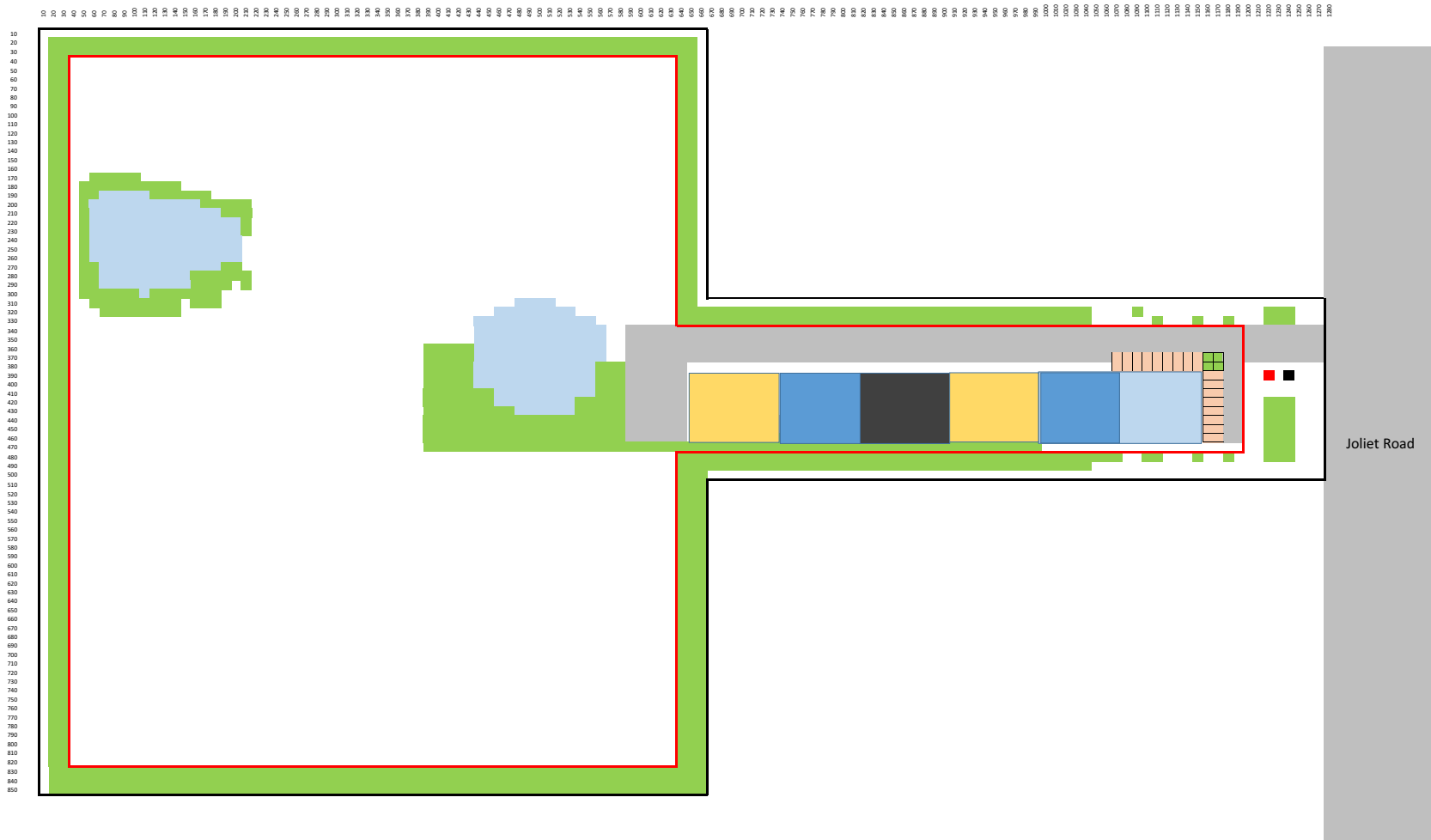
Additions to initial building 6 month interval (80'x80')



Initial Build-out



Full Build-out (~5 years)



Existing Conditions Exhibit

